United Nations S/2017/788

Security Council

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The Security Council,

Reaffirming its resolutions 1265 (1999), 1325 (2000), 1368 (2001), 1373 (2001), 1624 (2005), 1894 (2009), 2106 (2013), 2150 (2014), 2170 (2014), 2178 (2014), 2199 (2015), 2242 (2015), 2249 (2015), 2253 (2015), 2322 (2016), 2331 (2016), 2341 (2017), 2347 (2017), 2354 (2017), 2367 (2017), 2368 (2017), 2370 (2017) and its relevant presidential statements,

Reaffirming its respect for the sovereignty, territorial integrity, independence and unity of Iraq, in accordance with the purposes and principles of the Charter of the United Nations,

Recalling that the Islamic State in Iraq and the Levant (ISIL, also known as Da'esh) constitutes a global threat to international peace and security through its terrorist acts, its violent extremist ideology, its continued gross, systematic and widespread attacks directed against civilians, its violations of international humanitarian law and abuses of human rights, particularly those committed against women and children, and including those motivated by religious or ethnic grounds, and its recruitment and training of foreign terrorist fighters whose threat affects all regions and Member States,

Condemning the commission of acts by ISIL (Da'esh) involving murder, kidnapping, hostage-taking, suicide bombings, enslavement, sale into or otherwise forced marriage, trafficking in persons, rape, sexual slavery and other forms of sexual violence, recruitment and use of children, attacks on critical infrastructure, as well as its destruction of cultural heritage, including archaeological sites, and trafficking of cultural property,

Further recognising that the commission of such acts which may amount to war crimes, crimes against humanity or genocide, is part of the ideology and strategic objectives of ISIL (Da'esh), and used by ISIL (Da'esh) as a tactic of terrorism, and that holding ISIL (Da'esh) members accountable, particularly those

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who bear the greatest responsibility, including in terms of leadership, which can include regional or mid-level commanders, and the ordering and commission of crimes, will further expose this, and could assist in countering terrorism and violent extremism which can be conducive to terrorism, including by stemming financing and the continued flow of international recruits to the terrorist group ISIL (Da'esh),

Welcoming the considerable efforts of the Government of Iraq to defeat ISIL (Da'esh), and its letter to the Secretary-General and Security Council dated 9 August 2017 calling for the assistance of the international community to ensure that members of ISIL (Da'esh) are held accountable for their crimes in Iraq, including where those may amount to crimes against humanity (S/2017/710),

1. *Reiterates* its condemnation of all violations of international humanitarian law, violations and abuses of international human rights law, and acts of terrorism, and expresses its determination that, having united to defeat the terrorist group ISIL (Da'esh), those responsible in this group for such acts, including those that may amount to war crimes, crimes against humanity, and genocide, must be held accountable;

2. *Requests* the Secretary-General to establish an Investigative Team, headed by a Special Adviser, to support domestic efforts to hold ISIL (Da'esh) accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da'esh) in Iraq, to the highest possible standards, which should be addressed by the Terms of Reference referred to in paragraph 4, to ensure the broadest possible use before national courts, and complementing investigations being carried out by the Iraqi authorities, or investigations carried out by authorities in third countries at their request;

3. *Underlines* that the Special Adviser, while avoiding duplication of effort with other relevant United Nations bodies, will also promote throughout the world, accountability for acts that may amount to war crimes, crimes against humanity or genocide committed by ISIL (Da'esh), and work with survivors, in a manner consistent with relevant national laws, to ensure their interests in achieving accountability for ISIL (Da'esh) are fully recognised;

4. *Requests* the Secretary-General to submit to the Security Council, for its approval, within 60 days, Terms of Reference acceptable to the Government of Iraq in order to ensure the Team can fulfil its mandate, and consistent with this resolution, in particular paragraph 6, regarding the operation of the Investigative Team in Iraq;

5. *Underscores* that the Investigative Team shall operate with full respect for the sovereignty of Iraq and its jurisdiction over crimes committed in its territory, and that the Team's Terms of Reference shall specify that Iraqi investigative judges, and other criminal experts, including experienced members of the prosecution services, will be appointed to the Team to work on an equal footing alongside international experts, and further underscores that evidence of crimes collected and stored by the Team in Iraq should be for eventual use in fair and independent criminal proceedings, consistent with applicable international law, conducted by competent national-level courts, with the relevant Iraqi authorities as the primary intended recipient as specified in the Terms of Reference, and with any other uses to be determined in agreement with the Government of Iraq on a case by case basis;

6. *Emphasizes* that the Team should be impartial, independent, and credible and should act consistent with the Terms of Reference which set out the framework in which the Team will operate, the Charter of the United Nations and United

Nations best practice, and relevant international law including international human rights law;

7. *Requests* that, after the Security Council has approved the Terms of Reference that are acceptable to the Government of Iraq, the Secretary-General undertake without delay the steps, measures, and arrangements necessary for the speedy establishment and full functioning of the Team, in accordance with the Terms of Reference, and notify it when the Team begins its work;

8. *Underlines* that the Team should ensure its Iraqi members benefit from international expertise on the Team, and make every effort to share knowledge and technical assistance with Iraq;

9. *Encourages* Member States, and regional and intergovernmental organisations, to provide appropriate legal assistance and capacity building to the Government of Iraq in order to strengthen its courts and judicial system;

10. *Calls* on all other States to cooperate with the Team including through mutual arrangements on legal assistance, where necessary and appropriate, and in particular to provide it with any relevant information as appropriate they may possess pertaining to its mandate under this resolution;

11. *Underlines* that another Member State in whose territory ISIL (Da'esh) has committed acts that may amount to war crimes, crimes against humanity, or genocide, may request the Team to collect evidence of such acts, but only with the approval of the Security Council which may request the Secretary-General to submit separate Terms of Reference with regards to the operation of the Team in that State;

12. *Requests* the Team to cooperate, as appropriate, and consistent with its investigative functions in paragraph 2, with the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) and 2368 (2017) and with any other relevant monitoring bodies, and to work with other United Nations bodies within their respective mandates;

13. *Requests* the Secretary-General to establish, as a supplement to financing as an expense of the Organisation, a trust fund to receive voluntary contributions to implement this resolution;

14. *Calls* on States, and regional and intergovernmental organisations, to contribute funds, equipment and services to the Team including the offer of expert personnel in support of the implementation of this resolution;

15. *Requests* the Special Adviser to complete the first report of the Team's activities, within 90 days of the date on which it commences its activities, as notified by the Secretary-General, and to complete subsequent reports every 180 days thereafter, and requests the Special Adviser to present these reports to the Security Council;

16. *Decides* to review the mandate of the Special Adviser and Team after a period of two years, with any further extension to be decided at the request of the Government of Iraq, or any other government that has requested the Team to collect evidence of acts that may amount to war crimes, crimes against humanity, or genocide, committed by ISIL (Da'esh) in its territory;

17. *Decides* to remain actively seized of the matter.